

REMARKS

Claims 1-3 and 6-10 and 27-33 will be pending in the Application after the Examiner enters the forgoing amendment. Applicant respectfully submits that the pending are not suggested by any reasonable combination of the art of record, and otherwise comply with the statutes and regulations.

The Examiner objected to the Abstract of the Disclosure. Applicant has amended the Abstract of the Disclosure to address this objection by the Examiner.

The Examiner rejected claim 1 under 35 U.S.C. § 112, second paragraph, as being "as being indefinite" stating, *inter alia*: "Claim 1, lines 2-3, recites 'each checkout station including a respective second processor, a respective third processor, and a bar code reader.' However, the reference to the second processor, bar code reader, and third processor from the remaining lines 6-11 is not clear as to which checkout station is being referenced. It is not clear if the second processor, bar code reader, and third processor from lines 6-11 reference each of the plurality of checkout stations or from a single checkout station." (Office Action page 3).

At the time of the May 11 Office Action, claim 1 had been previously presented without being subject to this particular rejection under § 112. Applicant submits that in claims 1, as previously presented, it is clear that the second processor is that of the checkout station performing the recited acts. Nevertheless, to move this case toward issuance, Applicant has amended claim 1 in view of this belated rejection under § 112.

The Examiner rejected claims 1-3, 6-10 and 27-31 under 35 U.S.C. § 103 as being

unpatentable over U.S. Patent No. 6,067,526 to Powell (Powell '526), stating "Powell discloses checkout stations, a bar code reader, e.g. 910, a first computer network comprising a plurality of computers and a second computer network comprising a plurality of computers, each network sending a first and second signals." (Office Action page 4).

The disclosure quoted by the Examiner appears to have little relevance to the validity of the claims pending in the instant Application.

Each of claims 1-3, 6-10, and 27-33 recites an interrelation of steps, performed for each checkout station to perform a checkout transaction for a customer, of reading a first location from a memory of a customer card via the second processor; determining, in the first processor, a second location; and writing to the second location of the memory of the customer card via the second processor. (Base claims 1 and 27). No reasonable combination of the art of record, including Powell '526, suggests this recited interrelation including determining a location in the recited first processor and writing to the location via the recited second processor.¹

The Examiner stated, "Powell does not specifically disclose reading a first location, including a length, and the particular computers the signals are sent to. However, the sending of signals from one network to another, the time it takes to receive such a signal, and the data computation of such a transmission, would allow one of ordinary skill in the art to compute such a location. . . . The motivation for having done such would have been to determine where the card is being used when processing an electronic transaction." (Office

1. Applicant notes that the issue of whether Powell '526 would have suggested the claims of the instant application is different from the issue of whether embodiments of the claims of the instant application could infringe a claim of Powell '526. See *Ethicon Endo-surgery, Inc. v. United States Surgical Corporation*, 93 F.3d 1572, 1582 n. 7 (Fed. Cir. 1996) ("a claim [can be supported] by the


Action page 4).

The statement by the Examiner has no nexus with his attempted rejection under § 103. Even if there were a motivation "to determine where the card is being used," there is no indication that one of ordinary skill one have been lead to employ Applicant's recited combination including determining, in the first processor, a second location; and writing to the second location of the memory of the customer card via the second processor. (Base claims 1 and 27).

If there are any other fees required for entry of this amendment, or for any other reason, please charge such fees to the undersigned attorney's Deposit Account No. 10-0077.

If the Examiner has any questions about this amendment, applicant's representative would appreciate discussing this amendment with the Examiner. Applicant's representative, Jerome Jackson, can be reached at 703-684-4840.

Respectfully submitted,


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specification even though it would be literally infringed by undisclosed embodiments").